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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

UPSTATE NEW YORK ENGINEERS S.U.B.
FUND; ROBERT F. HILL, as trustee; and
NORMAN NOON, as trustee,

Defendants.

Adv. Pro. No. 10-05199 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL
OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel, Baker & Hostetler LLP, and defendant Upstate New York Engineers S.U.B. Fund (the “Fund”), Robert F. Hill, as trustee, and Norman Noon, as trustee (collectively, “Defendants”), by and through their counsel, O’Donoghue & O’Donoghue LLP (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 3, 2010, the Trustee filed the Complaint against Defendants.
2. On June 18, 2011, Defendants served an answer on the Trustee.
3. On July 2, 2015, the Parties entered into a settlement agreement (the “Settlement Agreement”) pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181].
4. Under the Settlement Agreement, Defendant Fund will make installment payments to the Trustee and Defendants will execute a Stipulation for Entry of Judgment, as security for the installment payments, which will be held in escrow by Trustee and not filed unless there is a default in the installment payments which remains uncured after ten (10) business days’ notice of default to Defendants and their counsel.
5. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissing the adversary proceeding, subject only to the right of Trustee to move *ex parte* to re-open this adversary proceeding in the event of any uncured default in the

installment payments to seek entry of Judgment pursuant to the Stipulation for Entry of Judgment.

6. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

7. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: July 6, 2015

Of Counsel:

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Attorneys for Defendants

SO ORDERED

Dated: July 7th, 2015
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE